

ESTTA Tracking number: **ESTTA622981**Filing date: **08/22/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Bosca S.p.A.
Granted to Date of previous extension	08/23/2014
Address	Via Luigi Bosca, 2 Canelli (Asti), 14053 ITALY
Attorney information	Lori S. Meddings, Erica Jeung Dickey Michael Best & Friedrich LLP 100 East Wisconsin Avenue, Suite 3300 Milwaukee, WI 53202 UNITED STATES mkeipdocket@michaelbest.com, lsmeddings@michaelbest.com, egjdickey@michaelbest.com, kghull@michaelbest.com

Applicant Information

Application No	86172375	Publication date	06/24/2014
Opposition Filing Date	08/22/2014	Opposition Period Ends	08/23/2014
Applicants	Burkhart, Philip 3000 F Danville Blvd, No. 521 Alamo, CA 94507 UNITED STATES Burkhart, Karen 3000 F Danville Blvd., No. 521 Alamo, CA 94507 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Wines and Sparkling Wines
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3361296	Application Date	09/27/2006
Registration Date	01/01/2008	Foreign Priority	NONE

		Date	
Word Mark	SPARKLETINI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 033. First use: First Use: 2004/09/10 First Use In Commerce: 2004/09/10 Alcoholic beverages, namely wines, sparkling wines, fruit wines, aperitifs with a wine base, sweet wines		

U.S. Registration No.	3462915	Application Date	09/27/2006
Registration Date	07/08/2008	Foreign Priority Date	NONE
Word Mark	SPARKLETINI		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2004/10/10 First Use In Commerce: 2004/10/10 Non-alcoholic beverages, namely, fruit juices, malt beverages		

Attachments	77008316#TMSN.png(bytes) 77008343#TMSN.png(bytes) 15543315_Notice_of_Opposition_-_SPA-TINI_WINE_CO.pdf(17542 bytes) 15542699_Exhibit_A_to_Notice_of_Opposition.pdf(51050 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Erica Jeung Dickey/
Name	Erica Jeung Dickey
Date	08/22/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BOSCA S.P.A.)	Opposition No. _____
)	
Opposer,)	Mark: SPA-TINI WINE CO.
)	
v.)	Serial No. 86/172375
)	
PHILIP BURKHART and KAREN BURKHART)	Filing Date: January 22, 2014
)	
Applicants.)	Published: June 24, 2014
)	

NOTICE OF OPPOSITION

Bosca S.P.A. ("Opposer"), an Italian joint stock company located at 15130 Via Luigi Bosca, 2, Canelli (Asti) 14053, Italy, believes that it will be damaged by registration of the SPA-TINI WINE CO. mark shown in Serial No. 86/172375 for "wines and sparkling wines" (the "SPA-TINI WINE CO. Application") filed by Philip Burkhardt and Karen Burkhardt, United States individuals with an address of 3000 F Danville Blvd., No. 521, Alamo, California 94507 (collectively, "Applicants") and hereby opposes it. The grounds for opposition are as follows:

1. Opposer is a producer of wines, sparkling wines and other beverages.
2. Since at least as early as September 10, 2004, Opposer has used the SPARKLETINI mark ("Opposer's Mark") for alcoholic beverages, namely wines, sparkling wines, fruit wines, aperitifs with a wine base, and sweet wines.
3. Since at least as early as October 10, 2004, Opposer has used Opposer's Mark for non-alcoholic beverages, namely, fruit juices, and malt beverages.

4. Opposer owns the following United States Trademark Registrations for Opposer's Mark:

Mark	Reg. Number / Reg. Date	Filing Date	Goods / Date of First Use
SPARKLETINI	3,361,296 January 1, 2008	September 27, 2006	Alcoholic beverages, namely wines, sparkling wines, fruit wines, aperitifs with a wine base, sweet wines (Sept. 10, 2004)
SPARKLETINI	3,462,915 July 8, 2008	September 27, 2006	Non-alcoholic beverages, namely, fruit juices, malt beverages (Oct. 10, 2004)

(the "SPARKLETINI Registrations"). Printouts of the current status and title of the SPARKLETINI Registrations from the United States Patent and Trademark Office (USPTO) Trademark Status & Document Retrieval (TSDR) database are attached as Exhibit A.

5. Opposer's SPARKLETINI Registrations have not been canceled, are valid, and are in full force and effect.

6. Opposer's SPARKLETINI Registrations are incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, and are conclusive evidence of the validity of the registered mark, the registrations, Opposer's ownership of the marks, and Opposer's exclusive right to use Opposer's Mark in commerce under Section 33 of the Lanham Act, 15 U.S.C. § 1115.

7. Opposer has advertised and promoted Opposer's Mark extensively and has made substantial sales of goods, in particular fruit-flavored sparkling wine, under the mark.

8. As a result of the widespread and extensive use of Opposer's Mark, such marks have become widely and favorably known throughout the United States and have become recognized by the trade and public as identifying the goods bearing such marks and

distinguishing them from the goods and services of others. Opposer's Mark represents valuable goodwill which inures to the benefit of Opposer.

9. Upon information and belief, Applicants are United States Individuals with an address at 3000 F Danville Blvd., No. 521, Alamo, California 94507.

10. On January 22, 2014, Applicants filed an intent to use application to register the SPA-TINI WINE CO. mark ("Applicants' Mark") for "wines and sparkling wines" in Class 33.

11. Upon information and belief, Applicants were aware of Opposer's Mark.

12. The SPA-TINI WINE CO. Application was published for opposition on June 24, 2014. Opposer was granted a 30-day extension of time to oppose the SPA-TINI WINE CO. Application on July 22, 2014. This Notice of Opposition is timely filed.

13. There is no issue of priority. Opposer has priority with respect to the marks at issue because it used and registered Opposer's Mark long before Applicants filed their SPA-TINI WINE CO. Application.

14. Applicants claim no use of the mark SPA-TINI WINE CO, however, according to Applicants' website: www.spatiniwineco.com, the mark is in use in connection with fruit-flavored sparkling wine.

15. Applicants' Mark, when applied to Applicants' Goods, is likely to cause confusion, mistake or deception with Opposer's Mark within the meaning of Section 2(d) of the Trademark Act.

16. Applicants' Mark is confusingly similar in appearance, sound, meaning, and overall commercial impression when compared to Opposer's Mark.

17. All of the goods identified in Applicants' SPA-TINI Application, including specifically those currently sold by Applicant under Applicant's Mark, namely fruit-flavored

sparkling wine (“Applicants’ Goods”) are either identical or closely related to the goods identified in Opposer’s SPARKLETINI Registrations, including specifically certain goods sold by Opposer, namely fruit-flavored sparkling wine. (“Opposer’s Goods”).

18. Upon information and belief, Applicants’ Goods and Opposer’s Goods are directly competitive and would be marketed, advertised, and promoted in the same manner.

19. Upon information and belief, Applicants’ Goods and Opposer’s Goods would be marketed and sold in the same channels of trade to the same consumers or class of consumers.

20. Based on the similarities in the parties’ marks, goods, and trade channels, consumers and potential consumers are likely to believe that Applicants’ Goods originate from Opposer or are otherwise endorsed, sponsored, or approved by Opposer, resulting in a likelihood of confusion.

21. If Applicants were granted the registration herein opposed for the goods herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of such mark. Such registration would be a source of damage and injury to Opposer.

22. In light of the foregoing allegations, Opposer believes that registration of the mark shown in the SPA-TINI WINE CO. Application will result in damage to Opposer under the provisions of Section 2(d) of the U.S. Trademark Act, 15 U.S.C. Section 1052.

WHEREFORE, Opposer requests that this opposition be sustained and the registration of Applicants’ application, Serial No. 86/172375 be denied.

[signature page follows]

Respectfully submitted,

BOSCA S.P.A.

By its Attorneys,

Date: August 22, 2014

/Erica Jeung Dickey/

Lori S. Meddings

Erica Jeung Dickey

MICHAEL BEST & FRIEDRICH LLP

One South Pinckney Street, Suite 700

Madison, WI 53703

Phone: (608) 257-3501

Fax: (608) 283-2275

CERTIFICATE OF SERVICE AND MAILING

I hereby certify that a true and correct copy of the foregoing Notice of Opposition is being served upon Applicants' Attorney of Record via overnight courier:

Kuscha Hatami
Raj Abhyanker P.C. DBA Legalforce
1580 W. El Camino Real, Number 13
Mountain View, California 94040-2463
United States

and that a copy of the same was filed electronically on the same date via ESTTA with the Trademark Trial and Appeal Board.

Date: August 22, 2014

/Erica Jeung Dickey/
Erica Jeung Dickey

EXHIBIT A

Generated on: This page was generated by TSDR on 2014-08-22 10:40:21 EDT

Mark: SPARKLETINI

SPARKLETINI

US Serial Number: 77008316

Application Filing Date: Sep. 27, 2006

US Registration Number: 3361296

Registration Date: Jan. 01, 2008

Register: Principal

Mark Type: Trademark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Mar. 08, 2013

Publication Date: Oct. 16, 2007

Mark Information

Mark Literal Elements: SPARKLETINI

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Alcoholic beverages, namely wines, sparkling wines, fruit wines, aperitifs with a wine base, sweet wines

International Class(es): 033 - Primary Class

U.S Class(es): 047, 049

Class Status: ACTIVE

Basis: 1(a)

First Use: Sep. 10, 2004

Use in Commerce: Sep. 10, 2004

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: BOSCA S.P.A.

Owner Address: Via Luigi Bosca, 2
Canelli (Asti) 14053
ITALY

Legal Entity Type: JOINT STOCK COMPANY

**State or Country Where
Organized:** ITALY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Lori S. Meddings

Docket Number: 088507-9014

**Attorney Primary Email
Address:** mkeipdocket@michaelbest.com

**Attorney Email
Authorized:** Yes

Correspondent

**Correspondent
Name/Address:** Lori S. Meddings
MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVE STE 3300
MILWAUKEE, WISCONSIN 53202-4108
UNITED STATES

Phone: 414-271-6560

Fax: 414-277-0656

Correspondent e-mail: mkeipdocket@michaelbest.com

Correspondent e-mail Yes
Authorized:

Domestic Representative

Domestic Representative Name: Lori S. Meddings

Phone: 414-271-6560

Fax: 414-277-0656

Domestic Representative e-mail: mkeipdocket@michaelbest.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Mar. 08, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Mar. 08, 2013	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	67723
Mar. 08, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67723
Feb. 19, 2013	TEAS SECTION 8 & 15 RECEIVED	
Jan. 01, 2008	REGISTERED-PRINCIPAL REGISTER	
Oct. 16, 2007	PUBLISHED FOR OPPOSITION	
Sep. 26, 2007	NOTICE OF PUBLICATION	
Sep. 13, 2007	LAW OFFICE PUBLICATION REVIEW COMPLETED	68552
Sep. 13, 2007	ASSIGNED TO LIE	68552
Aug. 06, 2007	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 03, 2007	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Aug. 02, 2007	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Aug. 02, 2007	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 15, 2007	NON-FINAL ACTION E-MAILED	6325
Feb. 15, 2007	NON-FINAL ACTION WRITTEN	77073
Feb. 15, 2007	ASSIGNED TO EXAMINER	77073
Oct. 02, 2006	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMO LAW OFFICE 111

Date in Location: Mar. 08, 2013

Generated on: This page was generated by TSDR on 2014-08-22 10:17:49 EDT

Mark: SPARKLETINI

SPARKLETINI

US Serial Number: 77008343
US Registration Number: 3462915
Register: Principal
Mark Type: Trademark
Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.
Status Date: Nov. 19, 2013
Publication Date: Oct. 16, 2007
Application Filing Date: Sep. 27, 2006
Registration Date: Jul. 08, 2008
Notice of Allowance Date: Jan. 08, 2008

Mark Information

Mark Literal Elements: SPARKLETINI
Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.
Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *...* identify additional (new) wording in the goods/services.

For: Non-alcoholic beverages, namely, fruit juices, malt beverages
International Class(es): 032 - Primary Class
U.S Class(es): 045, 046, 048
Class Status: ACTIVE
Basis: 1(a)
First Use: Oct. 10, 2004
Use in Commerce: Oct. 10, 2004

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: BOSCA S.P.A.
Owner Address: Via Luigi Bosca, 2
Canelli (Asti) 14053
ITALY
Legal Entity Type: JOINT STOCK COMPANY
State or Country Where Organized: ITALY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Lori S. Meddings
Attorney Primary Email Address: mkeipdocket@michaelbest.com
Docket Number: 085507-9014
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Lori S. Meddings
MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE, SUITE 3300
MILWAUKEE, WISCONSIN 53202-4108
UNITED STATES
Phone: 414-271-6560

Fax: 414-277-0656

Correspondent e-mail: mkeipdocket@michaelbest.com

Correspondent e-mail Yes
Authorized:

Domestic Representative

Domestic Representative Name: Lori S. Meddings

Phone: 414-271-6560

Fax: 414-277-0656

Domestic Representative e-mail: mkeipdocket@michaelbest.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

Date	Description	Proceeding Number
Nov. 19, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Nov. 19, 2013	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	75461
Nov. 05, 2013	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	75461
Nov. 19, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	75461
Nov. 05, 2013	TEAS SECTION 8 & 15 RECEIVED	
Jul. 08, 2008	REGISTERED-PRINCIPAL REGISTER	
Jun. 05, 2008	LAW OFFICE REGISTRATION REVIEW COMPLETED	68552
Jun. 05, 2008	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jun. 04, 2008	STATEMENT OF USE PROCESSING COMPLETE	76569
May 30, 2008	USE AMENDMENT FILED	76569
May 30, 2008	TEAS STATEMENT OF USE RECEIVED	
Jan. 08, 2008	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Oct. 16, 2007	PUBLISHED FOR OPPOSITION	
Sep. 26, 2007	NOTICE OF PUBLICATION	
Sep. 13, 2007	LAW OFFICE PUBLICATION REVIEW COMPLETED	68552
Sep. 13, 2007	ASSIGNED TO LIE	68552
Aug. 06, 2007	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 03, 2007	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Aug. 02, 2007	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Aug. 02, 2007	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 15, 2007	NON-FINAL ACTION E-MAILED	6325
Feb. 15, 2007	NON-FINAL ACTION WRITTEN	77073
Feb. 15, 2007	ASSIGNED TO EXAMINER	77073
Oct. 02, 2006	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMO LAW OFFICE 111

Date in Location: Nov. 19, 2013